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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re TERESA Z., et al., Persons
Coming Under the Juvenile Court
Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

V.S.,

Defendant and Appellant.

B292144

(Los Angeles County
Super. Ct. No.
18LJJP00445)

APPEAL from orders of the Superior Court of Los Angeles
County, Nancy Ramirez, Judge. Affirmed.

Neale B. Gold, under appointment by the Court of Appeal,
for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, and Veronica Randazzo, Deputy
County Counsel, for Plaintiff and Respondent.

V.S. (Mother) appeals from the juvenile court orders asserting jurisdiction over her children, Alexander M. and Teresa Z., pursuant to Welfare and Institutions Code section 300, subdivisions (b), (d), and (j).¹ Mother contends substantial evidence does not support the juvenile court's findings. We affirm the jurisdictional findings and dispositional orders.

FACTS

In 2018, Mother lived with her three minor children, Alexander (4), Teresa (10), and Liliana S. (15). Alexander's father, Alan M., also lived with the family until sometime in January 2018.

Prior Referrals

From 2003 through 2017, the Department of Children and Family Services (DCFS) received seven child welfare referrals that alleged physical abuse, emotional abuse, or general neglect resulting from Mother's methamphetamine abuse and domestic violence in the home. Two referrals were substantiated, one for physical abuse in 2007 and one for caretaker absence or incapacity in 2012. The remaining referrals were deemed inconclusive.

On January 12, 2018, Teresa's school called the Psychiatric Mobile Response Team (PMRT) after Teresa indicated she was sad, depressed, and planned to cut her wrist with a kitchen knife. The PMRT concluded Teresa should be placed on a psychiatric hold. Mother strenuously disagreed, stating no one could take Teresa away and she would "fight if anyone is going to hospitalize her daughter." An adult sibling was present; he and Mother yelled and made threats, causing the school to lock the doors.

¹ All further undesignated section references are to the Welfare and Institutions Code.

Mother took Teresa away from the school campus, prompting PMRT to contact law enforcement. Law enforcement had to help get Teresa into an ambulance. During the altercation, Teresa was overheard telling her great-grandmother something to the effect of “kick so and so out,” in response to a question about why she was so sad.

Teresa was hospitalized for two nights. In a later interview, Teresa reported she began feeling depressed around Halloween of 2017. She accused Alexander’s father, Alan M., of touching her “once a long time ago.” She felt better after Mother kicked him out of their home. However, he had returned the previous night (January 15) because he had nowhere else to go.

There was no indication Mother followed through with aftercare services following Teresa’s discharge from the hospital. Still, DCFS closed the referral. A social worker concluded there was insufficient evidence pinpointing Alan as the perpetrator and, although Mother “did not believe the incident was done with intent,” she had removed Alan from the home.

Events Prompting the Current Proceedings

On May 3, 2018, DCFS received another referral that Mother smoked methamphetamine in front of the children and physically abused them. The caller also reported Alan sexually molested Teresa or Liliana. Mother denied any drug use and tested negative for drugs and alcohol. She believed Alan had only rubbed his chest against Teresa during a game of hide-and-seek, but she had nonetheless put him out of the home. Liliana and Teresa denied Mother used drugs in their presence or that Alan molested either of them. Teresa denied seeing Alan since December or January.

On May 30, 2018, Teresa wrote a poem while at school about cutting and hanging herself. The school contacted the PMRT, but Mother took Teresa home before the team was able to assess her. Unable to get in contact with Mother, the PMRT contacted the social worker, recalling Mother's violent response to the prior PMRT intervention. Teresa admitted to the social worker that she was thinking about self-harm but denied actually harming herself, stating she did not want to disappoint Mother. She felt sad because her great-grandmother had recently died. She also reported seeing Alan "about a week ago" when he dropped off food for Alexander. Teresa denied Alan entered the house or that he was living in the home. She told the social worker, "He touched me down there when playing hide and seek. It was one time, but I don't want to talk about [it]."

Mother was not concerned that Teresa had suicidal ideations. Mother believed Teresa was merely writing lyrics to "emo music," and Mother had told her to listen to "happy stuff" instead. Mother denied Alan ever came around the home or had contact with the children.

Mother agreed to seek out services for Teresa. On June 1, Mother told the social worker she had left a message at the Children's Bureau in Lancaster for an appointment. The social worker asked if Mother would agree to voluntary family maintenance services. Mother replied: "'No, fuck that, I did what you told me to do.'" Two weeks later, the Children's Bureau in Lancaster reported it had no information about Teresa and no intake appointment scheduled for her.

On June 15, Mother reported Teresa was doing better since Mother shaved her arms and legs.² Mother had spoken with Teresa about her feelings and did not believe Teresa needed mental health services. Mother reported that if Teresa ever needed services she would procure them; she therefore told the social worker not to return to the home. Teresa confirmed she was feeling better but remained “a little sad” because of her great-grandmother’s death.

The social worker concluded Mother was minimizing Teresa’s suicidal ideation and refusing to get her evaluated even after the January hospitalization. DCFS opined the children were at “high” risk for future neglect and abuse.

The Petition and Initial Hearing

On July 16, 2018, the Department filed a petition pursuant to section 300, subdivisions (b), (d), and (j), on behalf of Liliana, Teresa, and Alexander. The petition alleged Alan sexually abused Teresa and Mother failed to protect her (counts b-1, d-1, j-1), Mother failed to obtain necessary mental health treatment for Teresa (counts b-2, j-2), and the parents’ conduct placed all three children at risk of harm. At the initial hearing, the court released Teresa and her siblings to Mother with no visits from Alan or any of the other children’s fathers. The court ordered services for the family, including a mental health assessment for Teresa, and, for all of the children, individual counseling and family preservation wrap or therapeutic behavior services.

² In a later interview, Mother explained Teresa was getting picked on “about how hairy she was,” so Mother helped her shave.

The Jurisdiction/Disposition Report and Hearing

DCFS conducted additional interviews for the jurisdiction/disposition report. Teresa refused to talk about the sexual abuse because social workers “act on all nice and twist up your words.” She did not recall previously saying Alan had returned to the home. Teresa further denied feeling suicidal or having a plan to harm herself. She did not want to go to therapy “because my mom can give me what I need.”

Mother reiterated that she made Alan leave as soon as she heard about the alleged abuse. But she also argued no one had considered that Teresa was on her period at the time and her great-grandmother had just died. Mother asserted the allegations in the petition were “sick and a lie.” She believed the police would have been involved if Alan had truly fondled Teresa. Mother threatened to sue DCFS and one of the children’s social workers personally.

Mother recalled she was suicidal at the age of 18. She received mental health services but did not feel they were helpful. She refused to provide information regarding the children’s medical history. Teresa refused to participate in any of the services ordered at the detention hearing. Mother also refused to consent to the services and declined service coordination. Mother told the investigator, “Teresa can get services when she is ready. She isn’t ready now.”

When the investigator asked Mother about Alan returning to the home, Mother responded, “He can’t get his belongings? If you leave somewhere you get your belongings.” Mother then admitted Alan had been to the home, but she insisted Teresa was not there at the time. Mother believed Teresa may have just seen Alan’s truck when she was walking home from school.

Mother and Teresa testified at the August 2018 adjudication hearing. Teresa, now 11 years old, testified she was hospitalized in January for almost two days. Her great-grandmother died after she was released from the hospital. Teresa claimed she had acted depressed before the hospitalization to get attention; she cried, locked herself in her room, and secluded herself from the others. She later admitted she was also depressed due to the incident with Alan.

The incident with Alan occurred in Teresa's sister's room, with the door closed and the lights off. Teresa and Alexander were playing a "scary game" in which Alan was the monster, and she and Alexander were the "survivors." Alan and Teresa began to rough-house or wrestle on the ground when "his hand brushed up against [Teresa's] vagina." She was wearing pants at the time. Teresa explained that "not even a second after Alan had, not even touched me, had brushed up against me, [Mother] had walked in because she had a feeling that something happened." When Mother walked in the room, Teresa quickly got up and ran to her. Mother immediately put a stop to the "playtime." Teresa had not seen Alan since she returned from the hospital. She later testified she saw his truck at Mother's house, but she hid in Mother's room for 20 minutes to avoid him.

Teresa did not like her school counselors and would rather speak with Mother about any problems. She denied ever acting on her feelings of self-harm, and was comfortable discussing those feelings with Mother. She denied feeling sad on the day of her testimony.

According to Mother, Alan had not lived in the home since January 2018, when Teresa told her she felt uncomfortable around him. Mother had not allowed Alan any contact with

Teresa since January. Mother conceded Alan had been to the home to drop off food for the children after he moved out, but she asserted he was present no more than 10 minutes and Teresa stayed in Mother's room while he was there.

Mother testified the hospital's after-care instructions directed contact with a health care provider if the depression was ongoing. Mother also believed she signed a safety plan from the school. She did not feel Teresa needed counseling after her hospitalization because she had just started her first menstrual period and Mother believed talking to her at home was more appropriate. Since then, Mother had discussed feelings of sadness with Teresa, but Teresa had not told her of any thoughts of self-harm.

To address any future thoughts of self-harm or depression Teresa might have, Mother had established a "safe word" with her. If Teresa said the word, it would prompt Mother to do something to make her happy, including going on walks or to the park, or having mommy-daughter time. There was no safe word, however, to seek professional help. Mother said she was working on getting mental health services for Teresa, but needed a new social security card for Teresa to do so. She was in the process of getting a new card.

Yet, Mother did not feel Teresa had any ongoing depression or that she needed to be assessed for depression. Mother still believed the onset of Teresa's menses caused her original depressive episode. Mother denied that Teresa was thinking of hurting herself in May 2018. Mother believed Teresa's poem about cutting and hanging herself "was just a story. It was off the top of her head." Mother also denied refusing to cooperate with the PMRT in May.

The juvenile court found Mother took protective action once she learned of the sexual abuse and struck Mother from the b-1, d-1, and j-1 allegations. However, it found true that Alan sexually abused Teresa. The juvenile court further sustained the b-2 and j-2 allegations as pled. It expressed concern that Teresa had exhibited a desire for self-harm and Mother did not have an appropriate mental health assessment or treatment plan for her.

The court terminated jurisdiction over Liliana, but declared Alexander and Teresa to be dependents of the court. The court released both children to Mother's care with orders for Teresa to receive a mental health assessment and counseling. Mother was ordered to provide all appropriate authorization to allow Teresa to receive these services. The court removed Alexander from Alan's custody.

Mother timely appealed.

DISCUSSION³

Mother argues substantial evidence does not support the juvenile court's jurisdictional findings of a substantial risk of continuing sexual abuse or neglect at the time of the adjudication hearing. The record discloses ample evidence to support the findings.

³ DCFS asks this court to take judicial notice of post-judgment evidence, specifically the filing of a subsequent petition in this matter. However, DCFS also notes the general rule that this court reviews the correctness of a judgment based on evidence in the record at the time the trial court renders judgment. DCFS has not presented a valid basis for us to depart from the general rule. (*In re Zeth S.* (2003) 31 Cal.4th 396, 405.) The request for judicial notice is denied. (*In re K.M.* (2015) 242 Cal.App.4th 450, 456.)

I. Standard of Review

“ ‘In reviewing a challenge to the sufficiency of the evidence supporting the jurisdictional findings and disposition, we determine if substantial evidence, contradicted or uncontradicted, supports them. “In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court’s determinations; and we note that issues of fact and credibility are the province of the trial court.” [Citation.] “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court. [Citations.]” ’ ” (*In re I.J.* (2013) 56 Cal.4th 766, 773 (*I.J.*)).

“As long as there is one unassailable jurisdictional finding, it is immaterial that another might be inappropriate.” (*In re Ashley B.* (2011) 202 Cal.App.4th 968, 979.)

II. Substantial Evidence Supports Jurisdiction

Although the court struck allegations regarding Mother in the b-1, d-1, and j-1 counts, Mother challenges the trial court’s jurisdictional finding on the ground there was no risk of sexual abuse at the time of the adjudication hearing, no ongoing risk from Teresa’s mental or emotional problems, and therefore no basis for jurisdiction. We disagree.

Teresa

A child comes within the definition of section 300, subdivision (d), when she has been sexually abused or is at substantial risk of sexual abuse, as defined in Penal Code section 11165.1, by a parent or a member of the child’s household. “Sexual abuse” under Penal Code section 11165.1 means sexual assault, which includes “[t]he intentional touching of the genitals

or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them . . . for purposes of sexual arousal or gratification . . .” (Pen. Code, § 11165.1, subd. (b)(4).) “Sexual abuse” also includes conduct that violates Penal Code section 647.6, prohibiting “annoying or molesting” a child. A finding of current risk is not required for jurisdiction under subdivision (d). (*In re Carlos T.* (2009) 174 Cal.App.4th 795, 806.)

The record establishes Teresa consistently described conduct that constitutes sexual abuse under Penal Code section 11165.1. (*In re Sheila B.* (1993) 19 Cal.App.4th 187, 200 (*Sheila B.*) [“The testimony of a single witness is sufficient to uphold a judgment . . .”].) The court could reasonably discredit Teresa’s late attempts to minimize the abuse and accept her earlier unequivocal statements. The incident was serious enough that Teresa disclosed it multiple times to Mother and others. The sexualized touching led to Teresa suffering intense depression. Teresa was fearful of Alan after the incident, hiding when he came to the house five months later.

Indeed, Mother does not contend on appeal that Alan’s conduct did not constitute sexual abuse under section 300, subdivision (d). Her sole argument is that there was no ongoing risk at the time of the adjudication hearing because she was protective and Alan was no longer in the home. This argument is entirely misplaced. The juvenile court was required to find either that Teresa was sexually abused *or* was at risk of sexual abuse. Substantial evidence supported the juvenile court finding that Teresa was sexually abused by a member of the household. No more was required. (*In re Carlos T.*, *supra*, 174 Cal.App.4th at pp. 803–804.)

Mother cannot rely on *Sheila B.* for a contrary result. In *Sheila B.*, *supra*, 19 Cal.App.4th 187, the child accused her grandfather and uncle of sexually molesting her, but later recanted the allegations. (*Id.* at p. 193.) The juvenile court believed the child's recantation and declined to take jurisdiction. The reviewing court found substantial evidence supported the juvenile court findings. (*Id.* at p. 199.) *Sheila B.* stands for the proposition, which we adopt, that the juvenile court's jurisdictional finding will be affirmed if substantial evidence supports it.

Substantial evidence also supported the juvenile court findings under section 300, subdivision (b), due to Mother's failure to obtain mental health treatment for Teresa's depression and suicidal ideations.

A jurisdictional finding under section 300, subdivision (b) requires: ““(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) ‘serious physical harm or illness’ to the child, or a ‘substantial risk’ of such harm or illness.” [Citation.]” (*In re James R.* (2009) 176 Cal.App.4th 129, 135.) “The third element ‘effectively requires a showing that at the time of the jurisdictional hearing the child is at substantial risk of serious physical harm in the future (e.g., evidence showing a substantial risk that past physical harm will reoccur).’ [Citation.]” (*Ibid.*)

The record contains substantial evidence that Teresa suffered from depression and suicidal ideation, yet Mother minimized the seriousness of the issue, was hostile to third party efforts to connect Teresa to services, and refused to obtain mental health treatment for her. In January 2018, Teresa stated she planned to cut her wrist with a kitchen knife. Mother's response

to the PMRT assessment that Teresa be hospitalized was to threaten to fight anyone who attempted it. Mother felt no mental health follow up was necessary after Teresa's two-day hospitalization. The discharge instructions from the hospital advised Mother to seek professional help if the depression recurred, but she did not, even when Teresa again expressed thoughts of self-harm. In May 2018, Mother attributed Teresa's writing about cutting and hanging herself to "emo music" and Teresa having her first period. Mother failed to schedule an intake appointment for Teresa after this incident. She later withheld her consent for services the court ordered at the initial hearing.

Mother admitted Teresa had still not seen a mental health professional by the time of the adjudication hearing in August 2018. Instead, Mother instituted a safe word which would prompt her to take a walk or spend time with Teresa. We note that within a less than six-month period, Teresa had twice expressed suicidal thoughts without sharing her feelings with Mother. Under these circumstances, Mother talking to Teresa is not a substitute for professional assessment or treatment. Teresa suffered sexual abuse, expressed thoughts of self-harm on more than one occasion, and at least once formulated a plan to carry out those thoughts. Substantial evidence supported a finding that Mother's ongoing failure to obtain mental health services for Teresa continued to place her at substantial risk of serious physical harm or illness at the time of the adjudication hearing.

Alexander

DCFS's theory as to Alexander was based on the abuse and neglect of Teresa. We therefore begin our analysis of the juvenile court's jurisdictional findings as to Alexander with section 300, subdivision (j). A child comes within the definition of subdivision (j) if: (1) the child's sibling has been abused or neglected as defined in subdivisions (a), (b), (d), (e), or (i), and (2) there is a substantial risk that the child will be abused or neglected as defined in those subdivisions. (*I.J.*, *supra*, 56 Cal.4th at p. 772.)

Subdivision (j) also directs the court to "consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child." (§ 300, subd. (j).) Thus, subdivision (j) affords the juvenile court greater latitude than the other subdivisions to determine whether a child is at substantial risk of harm. (*I.J.*, *supra*, 56 Cal.4th at p. 774.)

The *I.J.* court upheld a line of cases that overwhelmingly found sexual abuse of one child may constitute substantial evidence of a risk to another child in the household—even to a sibling of a different sex or age, or to a half-sibling. (*I.J.*, *supra*, 56 Cal.4th at pp. 774–779; see also *In re Andy G.* (2010) 183 Cal.App.4th 1405, 1414–1415 [father who exposed himself to 14-year-old daughter in presence of his two-year-old son displayed "total lack of concern" for whether son might observe his aberrant sexual behavior]; *In re Karen R.* (2001) 95 Cal.App.4th 84, 91.)

Alan sexually abused Teresa as defined in subdivision (d), thus fulfilling the first requirement. The circumstances surrounding Alan's abuse of Teresa also supported a finding that Alexander was at substantial risk of abuse or neglect. Alan took advantage of his familiar relationship with Teresa, and, while playing a physical game, used the opportunity to fondle her. Alexander was in the same room when Alan sexually assaulted Teresa. As discussed in *I.J.*, this fact is relevant to show a violation of trust because Alexander "could easily have learned of or even interrupted the abuse." (*I.J.*, *supra*, 56 Cal.4th at p. 778.) Alan's molestation of Teresa was a " 'fundamental betrayal of the appropriate relationship between the generations[.]' " (*Ibid.*; *In re P.A.* (2006) 144 Cal.App.4th 1339, 1346–1347 [aberrant sexual behavior by a parent places the victim's sibling who remained in the home at risk of aberrant sexual behavior].)

Even after the sexual abuse, Alan was in or around the home, collecting his belongings, or dropping off food. Alan was at the home in May 2018, five months after Mother made him move out, and only three months before the adjudication hearing. Alexander was four years old when the abuse occurred and five years old at the adjudication hearing. His relative youth tends to show he is less able to protect himself from harm at the time of the adjudication. There was a reasonable likelihood of ongoing contact since Alan is reported to be Alexander's father. (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2013) 215 Cal.App.4th 962, 970 [that father who abused stepdaughter was no longer living with mother placed his biological child at greater risk; absent juvenile court supervision, child could be spending time alone with father away from mother's home].) This contrasts with Liliana, who was 15 years

old at the time, not Alan's child, and judged not to be in need of the supervision of the court. The trial court could reasonably conclude there continued to be a substantial risk that Alexander would be abused or neglected without court supervision.

We need not consider any of the additional grounds for jurisdiction. Dependency jurisdiction may be based on the conduct of one parent alone. (*In re J.C.* (2014) 233 Cal.App.4th 1, 3.) Moreover, "[w]hen a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence. [Citations.]" (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

III. The Dispositional Orders Did Not Include Counseling or Parenting Classes for Mother

Mother also challenges the court's dispositional orders to the extent they contain orders for Mother to participate in services, including counseling and parenting classes. The juvenile court agreed Mother did not need those services and did not make those orders. There is no merit to this challenge.

DISPOSITION

The jurisdictional findings and dispositional orders are affirmed.

ADAMS, J.*

We concur:

STRATTON, Acting P. J.

WILEY, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.